

document entitled, "Essential Access Community Hospitals (EACHs) and Rural Primary Care Hospitals (RPCHs)."

EFFECTIVE DATE: These corrections are effective June 25, 1993.

FOR FURTHER INFORMATION CONTACT: Julie Brown, (410) 966-4669.

SUPPLEMENTARY INFORMATION:

I. Background

On May 26, 1993, we published a final rule titled "Essential Access Community Hospitals (EACHs) and Rural Primary Care Hospitals (RPCHs)" (58 FR 30630). In the preamble (p. 30638, column 1), we stated that we had revised § 485.610(a)(3) (applicable to potential RPCHs) to state that a hospital meets the rural location requirement of that section if it is otherwise qualified and has not been classified as an urban hospital for purposes of its standardized amount by HCFA or the Medicare Geographic Classification Review Board. In the corresponding regulations text, however, we incorrectly stated, " * * * has not been classified as an urban hospital for purposes of its wage index adjustment * * * " (emphasis added). We are correcting the regulations text to agree with the preamble statement.

In response to a public comment, we revised § 485.631(a)(1) so that an RPCH need not have midlevel practitioners on staff if it is staffed at all hours of operation by a doctor of medicine or osteopathy. However, in our standard on patient care policies (§ 485.635), we inadvertently did not make the necessary corresponding revision to paragraph (a)(2). Consequently, the regulation incorrectly requires patient care policies to be developed with the advice of one or more physician assistants, nurse practitioners, or clinical nurse specialists, even if none are on staff. We are correcting § 485.635(a)(2), to require their advice only if they are on staff. This change does not alter the requirement that at least one member of the group of professional personnel not be a member of the RPCH staff.

II. Corrections

In document number 93-12262 published May 26, 1993 (58 FR 30630), make the following changes:

§ 485.610 [Corrected]

1. On p. 30673, column 1, under § 485.610(a)(3), line 3: "wage index adjustment" is corrected to read "standardized payment amount".

§ 485.635 [Corrected]

2. On p. 30675, column 1, under § 485.635(a)(2), line 7: "specialists;" is

corrected to read, "specialists, if they are on staff under the provisions of § 485.631(a)(1);".

Dated: September 16, 1993.

Fred Wirth,

Acting Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 93-23444 Filed 9-23-93; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB88

Endangered and Threatened Wildlife and Plants; Determination To Reclassify the Louisiana PearlsheIl (*Margaritifera Hembeli*) From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines that the Louisiana pearlsheIl, *Margaritifera hembeli*, warrants reclassification from endangered to threatened under the authority of the Endangered Species Act (Act) of 1973, as amended. The Louisiana pearlsheIl, previously known only from the Bayou Boeuf drainage in Rapides Parish, Louisiana, was recently discovered to also exist in the Red River drainage in Grant Parish. Remaining threats are sedimentation from gravel mining, population fragmentation by impoundments, and collecting. However, discovery of the new populations has diminished the apparent degree of threat sufficiently to support a reclassification of the species to threatened. This rule implements the Federal protection and recovery provisions for threatened species as provided by the Act.

EFFECTIVE DATE: October 25, 1993.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, MS 39213.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Stewart at the above address (601/965-4900).

SUPPLEMENTARY INFORMATION:

Background

The Louisiana pearlsheIl was described as *Unio hembeli* by Conrad in 1838. This species was placed in the genus *Margarita* by Lea (1870), then in *Margaritifera* by Simpson (1900), and

finally in *Margaritifera* by Athearn (1970). This mussel is about 100 millimeters (mm) (3.9 inches) long, 50 mm (2.0 inches) high, and 30 mm (1.2 inches) wide. The shell is generally elliptical with an angular posterior margin, obtuse undulations on the posterior slope, with a dark brown to black periostracum, and white nacre. The species has been collected from only the Bayou Boeuf drainage, Rapides Parish, and the Red River drainage, Grant Parish, Louisiana. The Alabama population of earlier records is now considered a different species, the Alabama pearlsheIl, which was described as *Margaritifera marrianae* by Johnson (1983).

The Service initially listed the Louisiana pearlsheIl as an endangered species on February 5, 1988 (53 FR 3567). Since the initial listing, the species has been discovered in the Red River drainage of Grant Parish. The Service conducted surveys of this drainage in 1991 and 1992 in an effort to completely define the range of the species. The 1991 survey located the species at 12 sites in 8 streams that are tributary to the Red River. The 1992 survey (Hall 1992) confirmed these findings, extended the range within these streams, and searched more than 50 streams in Grant, Rapides, and Winn Parishes, Louisiana. Hall did not locate any additional populations of the Louisiana pearlsheIl. However, within the Grant Parish portion of the range there are several streams that are on posted private property. Since Hall did not survey streams where he could not get permission to enter the property, it is likely that additional populations of the Louisiana pearlsheIl occur on private property within the geographic area of the currently known range. The currently known range of this species now consists of 8 streams in the Red River drainage and 11 streams in the Bayou Boeuf drainage. The Red River is a major tributary of the Mississippi River and water from Bayou Boeuf eventually flows into Vermilion Bay of the Gulf of Mexico.

The objective of the 1990 recovery plan for this species was to reclassify it to threatened status by improving the status of populations within the historic occupied range in the Bayou Boeuf drainage. While this objective has not been fully met, the extent of the known range has increased substantially with the discovery of the Red River drainage populations, thus making the danger of extinction much less than originally thought. This expansion of known range and the presence of various size classes, indicating that most if not all populations are successfully

reproducing, provide an adequate basis to reclassify this mussel.

The proposed rule to reclassify the Louisiana pearlshell was published in the *Federal Register* on February 26, 1993 (58 FR 11579).

Summary of Comments and Recommendations

In the February 26, 1993, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in the *Alexandria Daily Town Talk* on March 13, 1993. Two comments were received and are discussed below.

A professional malacologist supported the reclassification, while questioning references to more than one population in the same stream and expressing concern over reclassifying a species without evidence of successful reproduction. The terminology has been changed to denote population sites, with all individuals in a stream representing a single population. Evidence of successful reproduction is present in the form of varying size classes in most, if not all, populations of the Louisiana pearlshell. That information was inadvertently omitted from the proposed rule and has been included in this rule. An individual opposed the reclassification based upon the historic decline in range, continued degradation of habitat, and the threats to the species and its ecosystem. This individual did not provide any substantiating information. The results of recent surveys conducted by the Service document a larger range than known at the time of listing, and also indicate an improvement in habitat and a reduction in threats to the species and its ecosystem due to U.S. Forest Service protection.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Louisiana pearlshell should be reclassified from endangered to threatened. Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for reclassifying a species. The Service's listing regulations (50 CFR

part 424) provide for a review of the five following factors when reclassifying (or listing or delisting) a species. These factors and their application to the Louisiana pearlshell, *Margaritifera hembeli*, are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

At the time of listing, the Louisiana pearlshell was thought to be restricted to 11 streams in the Bayou Boeuf drainage of Rapides Parish, Louisiana (Louisiana Natural Heritage Program 1985). The range in this system had been reduced and fragmented by impoundments. Beaver dams were inundating populations and had eliminated a population of approximately 1000 pearlshells in 1985. In addition, populations were being impacted by sedimentation from gravel pits on private lands and from erosion where clear cuts extended to the bank of streams. Clear cuts extending to the stream bank can increase runoff with resultant scouring of the stream bed that creates unstable habitat for mussels. Since the listing in 1988, the discovery of eight additional populations has substantially increased the known range of the species. The U.S. Forest Service has an active program to control beavers within the range of the Louisiana pearlshell and has a policy on Kisatche National Forest that provides for streamside zones of generally 100 feet along the banks of perennial and intermittent streams. The streamside zones are managed for water quality and wildlife. Timber harvesting in these zones is limited to selective cutting by removing trees or groups of trees for the purpose of wildlife habitat improvement. During timber harvest, additional measures are used to minimize sedimentation of perennial streams. While the populations of this species are still fragmented and isolated by impoundments and are still being impacted by sedimentation from private lands, the number of known populations is greater and threats to populations on Kisatche National Forest have been reduced. There is evidence of successful reproduction in most, if not all, populations.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Collecting poses a significant threat to this species. This mussel occurs in very shallow, clear streams and generally has about one inch of the shell protruding from the substrate. An entire population may occur within a relatively short stretch of a stream. The restricted

distribution within a stream and the ease of observing individual mussels makes collection of the species very easy. A single overzealous recreational or scientific collector could drastically reduce the population of any given stream in a few hours. The collecting impacts could easily reduce the population below levels necessary for reproduction. The threat of collecting remains unchanged since the listing.

C. Disease or Predation

There is no evidence of threats from disease. The shallow stream habitat of this species makes it very vulnerable to predation by raccoons and muskrats. However, there has not been a consistent pattern of predation on this mussel.

D. The Inadequacy of Existing Regulatory Mechanisms

This species is protected under sections 7 and 9 of the Endangered Species Act, and it is also protected by the Louisiana Department of Wildlife and Fisheries as an endangered species. The Service does not believe that reclassification to threatened status will result in substantive change in the protection afforded this species under these regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The discovery of the Louisiana pearlshell in eight streams of a different river drainage from the historically known populations, greatly benefited the recovery prospects for this species. This increase in number of populations and number of individual mussels significantly reduces the threat of natural or manmade factors affecting the continued existence of this species. The fish host for the mussel's larvae remains unknown, so impacts to this component of the reproductive cycle cannot be evaluated. Many of the streams where this species occurs are still isolated from each other and this may restrict gene flow; however, the populations are apparently reproducing and self-sustaining. Isolated gene pools are vulnerable to loss of genetic variability resulting in greater susceptibility of the population to catastrophic events, whether natural or man-made.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to reclassify this species from endangered status to threatened status. Threatened status is more appropriate because the species is

now known from 19 streams in two major drainages, with most, if not all, populations reproducing. While a population in one stream is still susceptible to a single catastrophic event, the entire population of the species is much less likely to be affected to the extent that species is in danger of extinction throughout all or a significant portion of its range. The recovery plan for this species will be revised to include an objective for delisting.

Available Conservation Measures

This rule changes the status of the Louisiana pearlshell from endangered to threatened. This rule acknowledges that the populations of the Louisiana pearlshell are relatively secure and are no longer in danger of extinction. This change in classification does not significantly alter the protection of this species under the Endangered Species Act. Anyone taking, attempting to take, or otherwise possessing a Louisiana pearlshell in an illegal manner would be subject to penalty under the Endangered Species Act. There are no differences in penalties for the illegal take of an endangered species versus a threatened species. Section 7 of the Act will also continue to protect this species from Federal actions that would jeopardize the continued existence of the species.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be

prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

- Athearn, H.D. 1970. Discussion of Dr. Heard's paper (Eastern freshwater mollusks, the south Atlantic and Gulf drainages): Pages 28-31; in A.H. Clarke (ed.), *Papers on the rare and endangered mollusks of North America*. Malacologia 20(1):1-56.
- Conrad, T.A. 1838. Monography of the family Unionidae, or naiades of Lamarck (Freshwater bivalve shells) of North America 1:93-94; plate 51.
- Hall, A.L., II. 1992. Field survey of *Margaritifera hembeli* 1992. Unpublished report to U.S. Fish and Wildlife Service, Jackson, MS. 4 pp.
- Johnson, R.E. 1983. *Margaritifera marrianae*, a new species of Unionacea (Bivalve: Margaritiferidae) from Mobile-Alabama-Coosa and Escambia River systems, Alabama. Occasional Papers on Mollusks (Museum of Comparative Zoology, Harvard University) 4(62):299-304.
- Lee, I. 1870. A synopsis of the family Unionidae: 4th edition. H.C. Lea, Philadelphia. 164 pp.
- Louisiana Natural Heritage Program. 1985. Status of *Margaritifera hembeli* (Unionacea: Margaritiferidae) in Kisatchie National Forest, Evangeline Ranger District, Rapides Parish, Louisiana, November 1985. An unpublished report to the U.S. Forest Service, 20 pp.
- Simpson, C.T. 1900. Synopsis of the naiades or pearly fresh-water mussels. Proc. U.S. Natl. Mus. 22-679.

Author

The author of this rule is James H. Stewart (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species. Exports, Imports, Reporting and recordkeeping requirements. Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted

2. Amend § 17.11(h) the list of Endangered and Threatened Wildlife, under "CLAMS", by revising the entry for "Pearlshell, Louisiana" to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS							
.
Pearlshell, Louisiana	<i>Margaritifera hembeli</i>	U.S.A. (LA)	NA	T	304,518	NA	NA
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Dated: September 1, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93-23258 Filed 9-23-93; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 930640-3222; I.D. #052093C]

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the conservation and management measures prescribed in Amendment 4 to the Fishery Management Plan for the Summer Flounder Fishery (FMP). This rule revises the percentage of the commercial quota allocated to each state, and revises the manner in which 1994 state quotas